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In The

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

No. 73-1753

IN RE: ESTATE OF JOHN CASSIDY
313 A. 2d 435 (Me. 1973)

ON PETITION FOR A WRIT OF CERTIORARI
TO THE MAINE SUPREME JUDICIAL COURT

APPELLANT'S REPLY BRIEF

Edythe L. Bliss Dyer
Appellant (pro se)
c/o 61 State Street
Bangor, Maine (04401)
Tel. [illegible] 1974

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IN BRIEF

The Respondent's attorneys, have complained that my Brief wants for CLARITY, — and it is the "antithesis of accuracy." Therefore with apologies and with over simplification, may I say: —

Everyone knows that the "SAME MANNER" of the Maine intestate statute is a "LEGAL" MANNER. And, that the applicability of the same, precludes all ancillary conjecture, or presumption; — from any and all sources.

THEREFORE: —

The Maine Law Court's presumption was void and Unconstitutional when it said: —

That, Mr. Cassidy

(Quote) — *"SHOULD" — — have viewed his childrens lineal descendants; as the DIRECT and immediate survivors of his body; —*

(Quote) — *"AS THOUGH" — — he died AFTER (4) of his (5) children, HAD SURVIVED HIM. (In fact, 43 years after he actually died.)*

THIS SPECIAL(judicial)PRIVILEGE IS OBVIOUSLY *NOT* THE SAME MANNER WHICH THE PROSPECTIVE "LEGAL EFFECT" OF THE STATUTE REQUIRES: — — AND *CONTINUES* TO REQUIRE.

***Therefore, the Probate court of original (and final) jurisdiction, has *not* been allowed (by the Law Court) to make a VALID, final distribution of the Cassidy estate.

Nor, — has the Maine Law Court validly, or LEGALLY ANSWERED the question presented to it, by the Supreme Court of Probate, in an interlocutory situation.

Although, the Maine Law Court ALLEGES, that the intestate statute:

IS APPLICABLE:

* * *

HAS BEEN APPLIED:

* * *

AND: — THAT MR. CASSIDY'S — ("SAME MANNER," — PROVIDED BY — — "THE LAWS OF THE STATE OF MAINE," — FOR THE DESCENT OF HIS — " INTESTATE PROPERTY") — HAS HAD THE "LEGAL EFFECT." . . . 313 A. 2d at p. 439)

* * *

THIS,

IS,

NOT,

TRUE . . . !

Because, (as the Law Court took void judicial notice), ***IT *WAS* INCONGRUOUS TO BY-PASS THE "PER STIRPES" CLASS.***

WHY — ?

(1) Because, I am, and always have been Mr. Cassidy's ONLY DIRECT LEGAL SURVIVOR, — IN ESSE. — AND, I CONTINUE TO BE A VALID LEGAL CLAIMANT.

(2) Because I was the only member of the direct "MEDIATE CLASS" (per stirpes) at the time of his death.

*(My mother "pre"-
deceased Mr. Cassidy; — — 144 Me. 326)

(3) Because the LAW of the (Maine Legislature's) statute, has stipulated that in Maine, all "MEDIATE" CLASS claimants may *only* take by right of REPRESENTATIONS.

IF, "the mills of justice, grind slowly but finely:" —

this Honorable Court is respectfully requested to SUPERVISE, — — a single U.S. citizen's equal right to due process, under the laws of the constitution of the State of Maine, *regardless of judicial "ipse dixit."

*(This is a Federal issue)

Only the Maine Law Court can now remedy with REMAND, (to the Probate Court) the required "LEGAL" application of the Maine intestate statute; — exactly as it admits (it should have done) in the Estate of Cassidy, case, 313 A. 2d at p. 439.

BECAUSE THE LAW COURT HAS PERMITTED (the special privilege) OF ALLOWING MR. CASSIDY TO:

(Quote) — *"as though" – legally die (43) YEARS AFTER HE ACTUALLY DIED:* — — —

THIS DOES VOID VIOLENCE TO THE MANDATE OF THE MAINE LEGISLATURE'S APPLICABLE INTESTATE STATUTE.

(Appellant's Brief at p. 38, 40.)

The Judicial Branch of Maine government is in conflict with the Legislative branch of Maine government.

(And I am denied "due process.")

In brief: — the situation may be rightly referred to as:

* * *

MAINE "JUDICIAL" GOVERNMENT
— VS —
MAINE "LEGISLATIVE" GOVERNMENT

APPELLANTS PRELIMINARY STATEMENT

The Appellant herein respectfully requests leave to bring to the attention of this Honorable Court:

(1) A reply to the Respondent's Brief dated June 19, 1974; — received by Appellant on June 21st, 1974.

(2) To show that the Respondent's Brief, is obviously in error, misleading and unnecessarily vindictive.

In brief, I shall attempt, with clarity to reply to each of the Respondents allegations in chronological order, step by step, as presented by the Respondent's.

* * *

IN ANSWER TO THE RESPONDENT'S PRELIMINARY STATEMENT

I am a pro se Appellant: who has precedurally earned the legal right to be before this Honorable Court, re: the case of, Estate of John Cassidy 313 A. 2d 435, (Me. 1973). — It may be that I have made some unintentional errors. However, this case is seriously presented and not intended to be frivolous. My briefs and the record of the case plainly prove; (and, the attorneys know very well) that I do NOT; — (as much as I would like to)

(Quote) — *". . . seek an adjudication of the same cause of action previously litigated in Murray vs Sullivan 158 Me. 98."*

(Respondent's Brief p. #1)

* * *

My Appellant's Brief, at page #23-24, clearly states:

(Quote) — *"Mrs. Dyer DOES NOT seek a new determination made by this court."*

Nor, do I seek a "new" declaratory judgment.

These presumptions are being forced upon me. They can only lead me down a "one way street," — so that the inherent issues presented, may be "by-passed." The allegation is a trap and a snare, into which I know better than to be persuaded.

(Appellant's Brief at p. 22)

* * *

Re: — RESPONDENT'S ALLEGED DOCTRINE OF "RES JUDICATA".

ONE UNDISPUTABLE FACT EXISTS: — . . . The Maine Intestate Statute IS APPLICABLE. * * * It controls the final distribution of the Cassidy Estate, IN THE PROBATE COURT.

ANCILLARY FACTS, ADMITTED BY THE MAINE LAW COURT (itself) ARE;

(1) That the statute "IS" applicable.

(2) That the "LEGAL" effect was determined by the Court

(313 A. 2d at p. 439)

(3) That, the statute's (legal effect) "MUST BE APPLIED."

(158 Me. at p. 107)

(4) That, the Law Court could give "NO HEED" to what Mr. Cassidy "MIGHT" or "SHOULD have said,"

NO ONE, (not even the Law Court) HAS DEFINED WHAT FACTS OR ANSV'ERS ARE RES JUDICATA.

IN CONTRADICTION, the Court admits; conflict of law: —

(1) That, it would be "INCONGRUOUS" to permit the statute to operate in a natural LEGAL manner.

(158 Me. at p. 107)

(2) That, the Law Court could give "NO HEED" to what Mr. Cassidy "MIGHT" or "SHOULD" have said.
(313 A. 2d at p. 439)

(3) That, Mr. Cassidy: —

(Quote) — *"SHOULD VIEW," his children's survivors as MR. CASSIDY'S DIRECT AND IMMEDIATE SURVIVORS.* — —
(158 Me. at p. 102)

— And,

(Quote) — *"the statute MUST be applied AS THOUGH (Mr. Cassidy's) DEATH OCCURRED IMMEDIATELY AFTER the death of his last surviving child. . . ."*
(158 Me. at p. 107)

* * *

The Respondent's attorneys are standing behind the Court's "catch all" words, "RES JUDICATA."

However, NO ONE, (not even the Law Court) has defined what FACTS, or LAW, is applicable as "res judicata."

A SPECIFIC PERFORMANCE (WHICH HAS BEEN BY-PASSED) IS REQUIRED.

THEREFORE: —

MY BRIEF INTENDED TO ASK: —

(1) Why can I not have judicially performed that which the INTESTATE STATUTE, LEGALLY, NATURALLY, AND "PROSPECTIVELY" REQUIRES . . .?

(2) Why can I not have;

(Quote) — . . . *"THE SAME LEGAL MANNER" — which the intestate statute provides; — exactly as Mr. Cassidy attempted to incorporate it by reference? (If*

it can be legally incorporated to operate 43 years after his death.)

Namely: as provided by:

(Quote) — *"THE LAWS OF THE STATE OF MAINE" — * * * for the (prospective) descent of intestate property, to every Maine citizen's "lineal descendents."*

(158 Me. at p. 99) (R. 350)

(3) Why would it be: —

(Quote) — "— — *incongrous to permit the statute to operate . . ."*

(Murray vs Sullivan 158 Me. at p. 107)

(4) Is the mandate of the Maine intestate statute so vague and incomplete: that it would be INCONGROUS to legally PERMIT THE PROBATE COURT to apply the "same manner" — which all other Maine citizens are required to do, PROSPECTIVELY . . .?

(5) Why was it necessary for the Law Court, to "GIVE HEED" to what Mr. Cassidy "MIGHT" or "SHOULD" have said?

Note: —

Although the Law Court admits in the Case of, — (Estate of Cassidy; 313 A. 2d at p. 439) — — THAT IT COULD GIVE *"NO"* "HEED," TO WHAT HE "MIGHT" OR "SHOULD" HAVE SAID: — IS THIS THE CONSTRUCTION WHICH THE COURT CONSIDERS TO BE RES JUDICATA: in the Probate Court?

Frankly, that which Mr. Cassidy "should" have said; —

". . . and the artificial manner, in which the Probate Court was forced to distribute the Cassidy estate; is obviously NOT LEGAL; and NOT STATUTORY DUE (probate) PROCESS.

The presumption that the Law Court had the JURISDICTION: — to legally create a NEW STATUTORY INTESTATE CLASS" (for the Legislature) — (43) years AFTER Mr. Cassidy's death: is LEGALLY IMPOSSIBLE.

If Mr. Cassidy attempted to incorporate by reference, A MANNER of the statute which did not exist when he wrote his will: — SUCH AN INCORPORATION WOULD BE, ALSO INVALID.

However, the MANNER OF the statute remained "unchanged;" — and so did the PROSPECTIVE LEGAL EFFECT, of the applicable statute.

THESE FACTS, prove that the case of the Estate of Cassidy, has knocked the (presumed) "CASE" out of Murray vs Sullivan: — proving it to be nothing more than a "LEGAL" NULLITY.

Res judicata, is not applicable to the Estate of Cassidy, for several reasons.

(1) It is the duty of the Respondent's attorneys to show; — what established facts (if any) are "res judicata."

(2) Res judicata is not applicable to judicial conjecture.

(3) The "Legal" effect of the applicable statute: — has not been permitted to operate, because its natural application would be INCONGRUOUS.

(4) Without the "Legal" operation of the statute the QUESTION presented (in Murray vs Sullivan) has not been answered.

(5) If the question presented has not been answered with "LEGAL EFFECT," — "res judicata" IS NOT APPLICABLE.

(6) Contradiction, inconclusiveness, ipse dixit, and conflicts of law, created a legal nullity.

(7) The conflict between the Legislature's statutory mandate, and the Law Court's incongruous jurisdiction, represents void construction, and a legal nullity.

(8) The conflict which continues to exist, between the unappealed ORIGINAL jurisdiction of the Probate Court; — and the Law Court's ("de novo") everything is VOID DUE PROCESS. It violates the foundation upon which all stare decisis probate law legally exists.

The recognized function of a Law Court, — is APPELLATE: — It must declare the law, (applicable to the facts presented) or remand, to a lower court.

IF, THE DOCTRINE OF "RES JUDICATA" IS APPLICABLE, IT FIRST BELONGS APPROPRIATELY TO THE ESTABLISHED (and unappealed) JURISDICTION OF THE PROBATE COURT, — OF ORIGINAL JURISDICTION.

The whole situation is so legally incongruous; that, (naturally) the Law Court desires to AGAIN "by-pass" everything; and decree the catch all words, — "res judicata."

HOWEVER JUSTICE HAS NOT BEEN DONE . . . !

SUPERVISION OF FUNDAMENTAL CONSTITUTIONAL CIVIL RIGHTS; — (IN THE INTEREST OF PUBLIC POLICY, AND BETTER LAW,) — IS INDICATED.

The case would never have "got past" the Supreme Court of Probate, except for the Agreed Facts, which were Reported to the Law Court; for LEGAL instructions to the Supreme Court of Probate, (in an interlocutory situation) — before distributing the estate.

The Law Court (itself) admitted:

(Quote) — *"They disagree ONLY as to the size of the*

share each CLAIMANT should receive."
(Murray case, at p. 100)
(Appellant's Brief at p. 29)

The record of the case, which was the foundation for the law courts jurisdiction: — (re: the "LEGAL" question of "Law") presented to the Law Court, HAD TO REPRESENT ORIGINAL (FIXED) PROBATE "RES JUDICATA;" — or, the Law Court had no jurisdiction.

The Law Court, had no jurisdiction to create or construe, "NEW" original probate process, or procedure; to aid its own jurisdiction.

Any "res judicata" (LEGAL ANSWERS), inherent to the Murray vs Sullivan case, — (if any exist) as claimed by the Respondents; had to be derived from, the Agreed Facts, as Certified to the Law Court.
(Colonial Bank vs Stevens)
(316 A. 2d 768)
(Appellant's Brief at p. 60-62)

Probate Courts and Law Courts, are creatures of statute. The Record of the case must show original jurisdiction. However no party desired, or appealed from the original Probate Court's findings; — or denied that the Probate Court had competent jurisdiction, over the parties and subject matter.

The judgment in the Murray case, is not based upon the probate facts certified. When Mr. Cassidy SHOULD have intended to LEGALLY die: — How he SHOULD have viewed the CLASSES OF HIS LINEAL DESCENDANTS (in the eyes of the Maine INTESTATE statute,) — 43 years, AFTER he actually died, — is not "LEGAL."

It is obvious, that the Maine Law Court *did*, — create a "new" legal CLASS of statutory claimants. Also, "new"

(de novo) PROBATE subject matter, new facts, and "new" (direct and immediate) PARTIES; — who were actually the ISSUE *OF* HIS "ISSUE" who had descended — " per stirpes" — from (2) statutory Classes.

(Cassidy vs Murray 144 Me. 326)
(Johnson vs Stetson 159 Me. at p. 44)

The Court admitted: —

(Quote) — *"We think — the Testator . . . SHOULD view his — lineal descendants of equal degree as a NEW CLASS."*

(Appellant Brief at p. 47-50)

Clearly; — no state law court can force a NEW statutory application of law — (upon "legal" claimants) forty three years after a Maine Citizen's death: to grant such "special privilege," for UNNAMED persons, in one class, to the detriment of another statutory class, is incongruous.

"Res Judicata," is not applicable to; — nor can it extend to, moot, hypothetical, INFERENTIAL JUDICIAL ANSWERS. * * (Reasons, by judges, are not res judicata.) * *

However, let it be remembered that NO facts, (or disagreements) existed in the Murray case; — and ONLY the Maine intestate statute could remedy the "Legal" situation.

It is this statutory ("LEGAL") remedy which I respectfully request to have performed; — as provided by; —

(Quote) — *"THE LAWS OF THE STATE OF MAINE."*

(Please see Cassidy Will, in
Murray vs Sullivan at p. 99)
Appellants Brief at p. 41)

The alleged res judicata "smoke-screen" is LEGALLY INADEQUATE, because no "legal" facts have yet been validly determined, made or answered.

If so, what are they . . .?

The Probate Courts, should again take judicial notice of the fact; — that my Appeal (Estate of John Cassidy 313 A. 2d at p. 439) represents evidence, which IMPEACHES the Murray vs Sullivan case, (for remand) because the Maine Law Court now admits; — the PROOF,

(Quote) — *"It could give NO HEED to what he (Mr. Cassidy) MIGHT or SHOULD have said."*
(Appellants Brief at p. 18-19)

I claim the Maine Law Court unconstitutionally exceeded its jurisdiction when it refused to:

(Quote) — *". . . determine the LEGAL effect of what John Cassidy said." (Supra)*

HERE, . . . THE IMMUTABLE "CONFLICY" BRINGS TWO BRANCHES OF MAINE GOVERNMENT INTO CONFLICT; — which only this Honorable Court can now regulate.

(1) The Maine Legislature's intended rights and immutable application of its fundamental INTESTATE STATUTE; — is the only "MANNER", and enforceable mandate, which is available, without prejudicial "special privilege."

(2) The Maine Law Court's judicial jurisdiction should be limited to the applicable LAW. SUPERVISION by this Honorable Court is needed to effectuate and define the (vox pox) "public policy" of the statute, as a fixed legal pattern, for all civil intestate situations.

The Respondent's attorneys have quoted, — (313 A. 2d at p. 432) by saying: —

(Quote) — *"The doctrine of res judicata is determinative of the question before the court — —".*

I ASK: —

What (determinative) "res judicata" LEGAL ANSWER (before the Court in the Murray vs Sullivan case) do the attorneys now rely upon?

Is it presumption, conjecture, or "ipse dixit" fiat . . .? What, legal fact is res judicata?

I say the LEGAL APPLICATION of the applicable statutory law; must be answered exactly as the Law Court admits, in the Estate of Cassidy case.

(313 A. 2d at p. 439)

BUT THE COURT REFUSES TO ANSWER THE (only) "LEGAL QUESTION PRESENTED. IT *DID* HOWEVER, HEED AND GIVE (ipse dixit effect) TO, HOW MR. CASSIDY; —

(Quote) — *"SHOULD VIEW HIS — LINEAL DESCENDANTS — AS A NEW CLASS —" • • • REGARDLESS OF THE PROSPECTIVE "LEGAL" REMEDY WHICH THE APPLICABLE STATUTE CAN ONLY PROVIDE. (Legal classes can not lapse.)*

(Hunt vs Hunt 37 Me. at p. 343)

(Appellants Brief at p. 23)

The word "LEGAL" takes the "CASE" out of the Murray vs Sullivan case; — and it proves my contention, that it is a "LEGAL NULLITY."

(Appellants Brief at p. 25)

Frankly; — HOW, CAN THE REQUIRED MAINE INTESTATE STATUTE BE APPLICABLE; —??

(Quote) — *"AS THOUGH" — THE CLASS (OF A CHILD, WHO, PRE-DECEASED MR. CASSIDY,*

— (WHICH IS STILL IN ESSE) IS WITHOUT A "LEGAL" RIGHT OF REPRESENTATION, DIRECTLY, per stirpes . . . ???

* * *

IF IT IS NOT "LEGAL"; —
IT IS NOT APPLICABLE.

* * *

IF IT HAS NOT BEEN APPLIED, LEGALLY — THE CASSIDY WILL, WANTS FOR FINAL DISTRIBUTION; — AND BECOMES "REALLY" (LEGALLY) INTESTATE.

* * *

THIS "LEGAL" RIGHT I CLAIM . . . BY USING THE COURT'S OWN WORDS. THIS CIVIL RIGHT "IS" THE APPLICABLE STATUTORY RIGHT; WHICH CLEARLY HAS NOT BEEN ANSWERED; OR

(Quote) — *"PERMITTED."*

* * *

Re: RESPONDENT'S AGRUMENT: — (A)

The Argument states, Petitioner has failed to apply timely.

I say: IT DEPENDS UPON HOW THE (90) DAYS ARE COUNTED.

Surely the Respondent's attorneys know better than to allege: —

(Quote) — *"This case was argued on October 3, 1973, and an opinion rendered and judgment entered on December 26, 1973, by the Supreme Judicial Court of Maine.*

The Petition was filed on May 22, 1974, more than (90) days since the entry of judgment —."
(313 A. 2d 435, Me. 1973)

***THE ATTORNEYS HAVE DELIBERATELY ATTEMPTED TO TELL THIS HONORABLE COURT A "HALF TRUTH." (Ethics; ethics, ethics . . .?)

The Fact that the attorneys would have this Honorable Court believe I have been untimely since December 26, 1973 — is just plain deceitful and vindictive.*** It is incredible.

Obviously on the last page, of my Brief to this Honorable Court, (May 4, 1974) it plainly appears that the "Dec. 26, 1973, date; — (which the attorneys allege) — was NOT the date, of the last communication to me; from the Supreme Judicial Court of Maine. * * *

A MOTION TO THE MAINE LAW COURT FOR "REVIEW" (dated Jan. 15, 1974) WAS MAILED OUT ON FEB. 1st, 1974, (with service to all parties) —. My Registered Mail indicates it was received by the Law Court Clerk on Feb. 5th, 1974. IT WAS DENIED AND FILED ON FEB. 21st, 1974, by the Law Court's Clerk.

If I recall correctly, the Court's communication was delivered to my office (about) Feb. 23rd, 1974, — it was a weekend, I saw it for the first time (about) Feb. 25th.

With simple calculation, starting (about) Feb. 25, 1974, (plus 90 days) it — brings my filing time to about May 16, 1974.

However: — In a letter to the Supreme Court's Clerk's Office, dated April 19, 1974; — I advised the Clerk, I intended to appeal the case of Estate of Cassidy, 313 A. 2d 435, (Me. 1973).

The letter said, in part: —

(Quote) — *"The purpose of this letter is to ask, if it would be in order, and timely, to:*

(1) Appeal the (probate) case of the Estate of John Cassidy (313 A. 2d 435) to the U.S. Supreme Court.

(Copy of the last filed communication for the Maine Law Court is enclosed and dated Feb. 21, 1974.)

(2) At the moment no law firm has been retained; the Motion would be pro se under U.S.C. — Rule #19-#21, (14th Amendment)."

* * *

I advised the Court that I intended to file, — with the U.S. Court on or before (April) 21st, 1974, unless an extension of time is granted.

Please note; — The date of the letter being April 19th; — obviously, the (April) 21st, 1974, date, was a typographical error; — (May 21, 1974) being the intended date.

On April 24, 1974, the U.S.C. Clerk's office acknowledged my letter, and said the Maine Law Courts judgment —,

(Quote) — " — *is of course, receivable by this court* —." . . . (Appendix, — A)

* * *

Presumably, no grounds for admonishment or intimidation exist. — The U.S. Court sent me a copy of the Court's Rules, — and I have tried to follow them.

***This Honorable Court advised me that the case WAS DOCKETED (on May 22d, 1974) and that the number assigned, was #73-1753. (All interested parties were advised of The Docket number.)

My brief was ready on May 4th, 1974. It was on it's way in the U.S. Mail postage pre-paid, etc., on May 21, 1974, — which was the best I could do with the "union printers."

(Please see p. #4, of
Appellates brief re: printers;
and the impossible hardship.

In fairness, I am sure this Honorable Court will understand that no neglect, or intentional delay exists. Because this Honorable Court may waive its own rules, I respectfully request same. Because the case is scheduled of the October Term of Court 1974; — and because of the undependability of the U.S. Mails, some time was lost. I trust the Court will allow an equitable day or two (+) or (—); — even if the attorneys do not choose to be cooperative.

* * *

In Re: RESPONDENT'S AGRUMENT, (B)

It appears that if "clarity" is of major concern to the attorneys; I can overlook with ease their attack upon my humble (pro se) Brief.

(quote) — *"the petition is the antithesis of "accuracy."*
(Respondent's Brief)

With apologies to everyone, "brevity" in this case would be desirable for everyone. But this is a NOVEL case, (possibly of first impression) and represents many facets, not easily briefed. For a pro se petitioner to tilt with a Supreme State Court armed with "ipse dixit" — requires facts, law, and many cases, to prove why "justice" should be done. A few "pro se" errors, should not be too unnatural, in a case of this comprehension.

It seems to me, that the attorneys should have devoted more time to the word "LEGAL"; in the Estate of Cassidy case, 313 A. 2d at p. #439. — "LEGAL" has a very "clear" meaning; — which POINTS OUT THE "NULLITY" in the Murray vs Sullivan case.

The Respondent's attorneys have ignored the "clarity" (and the excellent research) in the case of Weller vs Sokol, 318 A. 2d 193. (Md. 1974.) — which I submitted as new evidence (on May 31, 1974) — to this Honorable Court, (with service to all parties.)

Surely the law of the Weller-Sokol case, as researched by the Supreme Court of the State of Maryland; is "clear" enough for the Respondent's attorneys to comprehend.

(Quote) — *This Court — DETERMINED the legal effect . . ."* (313 A. 2d at p. 439)

If the Law Court would only let the LAW OF THE APPLICABLE STATUTE — take its natural and legal course: — the testator's intended remedy could be

effectuated. Without this, plain common INTESTACY is the only alternative.

There seems to be no doubt that the Probate Court would have no trouble with its (INTERLOCUTORY) question of law: —

IF THE LAW COURT HAD SAID NO MORE: — AFTER ITS OPENING STATEMENT, (in the Murray vs Sullivan case, 158 Me. at p. #100.)

(Quote) — *"The applicable statute, is —" . . . R.S. (1954) Chap. 170, Sec. 11. Sub. sec. 11.*

In plain clear words, it was the stipulated duty of the Maine Law Court to apply it in the "same manner" as the ("Laws of the State of Maine") — REQUIRED.
(Cassidy Will)

And, in the "same manner" which Mr. Cassidy knew and understood its application, when he wrote his will — in 1906; there can be no other "prospective" legal application.

And, the important point of the case is; THAT THE APPLICABLE INTESTATE STATUTE WAS CONFINED: — — — (*Weller vs Sokol*) — (*Supra*)

(a) To the "ISSUE OF, ISSUE."

(b) To the Legal situation which existed, "as he knew it, at the time the will was made."

(c) That the applicable statute, was confined to a LEGAL AND NATURAL APPLICATION.

(d) And, that (original) PROBATED FACTS, PARTIES, AND SUBJECT MATTER, WAS THE BASIS UPON WHICH THE INTESTATE STATUTE WAS APPLICABLE.

THIS CASE CLEARLY REPRESENTS THE KIND

OF (CIVIL) DUE PROCESS, TO WHICH THIS HONORABLE COURT IS RESPECTFULLY REQUESTED TO "EXCERISE ITS POWER OF SUPERVISION" — ON MY BEHALF.

(under U.S.C. Rule, #19, #30-31)
Appellant's Brief at p. 20)

The Maine Law Court (apparently) refused to answer the "LEGAL QUESTION" as originally presented, in the Murray case.

However, (in the Estate of Cassidy case at p. 439) the Court admits to the "LEGAL EFFECT."

But it holds at p. 437: —

(quote) — *"The doctrine of res judicata is determinative of the question before the Court — "*

However: — the Court admits at p. 439; —

Without the "legal" application, the Law Court (apparently) has violated the Maine Legislature's intestate intention, and the testator's intention.

THE CONFLICT BETWEEN TWO JURISDICTIONS, (or branches) OF MAINE GOVERNMENT DEPRIVES ME, OF: —

(a) My statutory "class" right.

(b) My "legal" rights.

(c) My "civil" rights, under State and Federal constitutional laws.

If, the Maine Law Court is now hesitant to (in effect) admit the Murray vs Sullivan case is a confused legal nullity: because the U.S. Supreme Court denied certiorari, re: — the Murray case: — —

IT SHOULD BE NOTED: —

That, the Respondents Brief, at p. 3, admits:

(Quote) — *In Murray, the question presented was SOLELY one of State Law . . .*"

To this I say YES-YES . . .! At last we agree on something!

Re: RESPONDENT'S AGRUMENT (C)

"FEDERAL LAW"

The Maine intestate statute is UNAMBIGUOUS, and has long standing historical stare decisis clarity, and legal significance.

Whereas the Maine Law Court admits, at p. #439,

(Quote) — *"It could give NO HEED to what he (Mr. Cassidy) MIGHT or "SHOULD" have said."*

I contend that the Law Court has abdicated. And, although the wheels of justice have been grinding on this case (exceedingly) slowly, — the time has come for "JUSTICE (UNDER STATUTORY LAW) TO BE DONE. (This is a Constitutional right, which every citizen may request. . .)

In my Motion to the Law Court (Jan. 15, 1974) at p. 25-26, — I said: —

(Quote) — *"When the reason for the law ceases, — so does the law."*

"Reason, is the soul of the law."

And the Court admits:

" — — *we are not disposed — to treat the statutory language as mere surplusage IF MEANING CAN BE GIVEN TO IT."*

(Caswell vs Kent — (158 Me. at p. 498)
(United States vs Kreider)
(61 S. Ct. 1007)
(313 U.S. 443)

A state court's "FIAT" (can make void law) and when law is "void;" it is void in infinitum.

(R. 120) (R. 125)

The legislature must be deemed to have intended to enact a valid constitutional STATUTE;-applicable to all citizens alike, WITHOUT SPECIAL PRIVILEGES TO ANYONE; — NOT EVEN A LAW COURT.

(Quote) — *Any person claiming "res judicata" estoppel, must assume the burden to prove conclusively that the issue (of fact) WAS ANSWERED.*
(146 Me. at p. 420)

NO VALID
"LEGAL" FACT
HAS EVER BEEN
ANSWERED
* (only conjecture) *

My brief:

Intends to raise fundamental Constitutional Issues.
(Appellant's Brief at p. 50 - 72)

For example: —

In the United States we are supposed to live under Constitutions: — State and Federal.

Citizens, such as myself, believe each State should have (3) three branches of government,

(1) Legislative
(2) Judicial
(3) Executive

The Judicial branch is supposed to protect, defend, and enforce the Legislatures Laws, — NOT REWRITE THEM — WITH FIAT AND IPSE DIXIT. — The whole system is interdependent, but jurisdictional. (All courts have different jurisdictions.) (28 U.S.C. Sec. 2403)

Re: RESPONDENT'S AGRUMENT (D)

"DAMAGES"

The attorneys go to great length to admonish and seek double pecuniary damages from the Appellant.

However, they might be decent enough to (also) advise this Honorable Court that, — The Supreme Judicial Court DENIED a similar claim, — (*)

(Quote) — *"WITHOUT PREJUDICE"*
(Please see Appendix)

(*) Xerox copy filed by Clerk of the Maine Law Court, on Feb. 21, 1974.

And on page, #2, of the Respondent's Brief, to the Maine Law Court, re: The Estate of Cassidy case: The respondents herein admitted:

(Quote) — *"The Appellees concede that the Appellant IS PROCEDURALLY BEFORE THE LAW COURT."*

(my emphasis)

THIS BEING TRUE: —

It seems to me that if a legal (procedural) right existed, to be before the Maine Law Court; — a legal right exists to Appeal to the Supreme Court of the United States, for "due process" and "equal rights":

— Why not?

The attorneys may totally disagree with everything I say: but as Voltair once said: —

"I would give my life to defend your right to say it."

However, I am in doubt about the attorney's defend-

ing my rights to obtain "due process."

I respectfully request this Honorable Court—NOT to deny my Appeal; but, rather to please give fair consideration with remedy in whatever manner (or remand) this Honorable Court deems appropriate.

* * *

This case, and this Reply Brief, is not intended to be vindictive toward anyone; — or to delay Justice in its endless endeavors to remedy the frailties of mankind, and better corpus juris laws.

My husband and I are not lawyers. We are only serious country people, untrained "professionally" in the science of Law. For the Record, our son, (a lawyer) has had nothing to do with either of these separate cases; — (except to read an Oral Argument before the Maine Law Court, which I prepared for him to read; — as an admissable member to the bar.)

With the exception of my husbands help and advice, I have had no Legal advice, re: this case. (Estate of Cassidy.)

IN CONCLUSION

However: — The whole controversy is the result of the surprising conjecture in the case of Murray vs Sullivan, (158 Me. 98) — which did not answer the LEGAL question presented: — or permit the Probate Court, County of Penobscot, State of Maine, to make a VALID final distribution. All distributions to date have been made UNDER PROTEST, as the probate records will show.

This DEPENDABLE "PROSPECTIVE" MANNER — is the only manner permitted, or intended, under the laws of the State of Maine. It is fixed by LAW, to be automatic, from the instant of death, and forever after. It creates only (2) CLASSES of heirs. All other claimants have to be (by law) more REMOTE.

IF, THE *REASON*, FOR THE MAINE LEGISLATURE'S INTESTATE STATUTE; — IS THE SOUL OF THE LAW: —

Nobody can deny that the Legislature's reason and INTENDED MANNER contains LIMITATIONS; — even for a "LAW" COURT.

Therefore this fixed pattern of Legislative law, continues to LEGALLY exist (and be claimable by the Appellant herein) and be applicable to ALL Maine citizens, at all times as a DEPENDABLE (CLAIMABLE) PROSPECTIVE MANNER; — automatically from the instant of death, and *forever thereafter.* — ; — —

It is therefore important public Policy for any testator; — intestator, — or class of claimants; — in all states, of the United States; — to know and be able to rely upon "the same manner" their state law, provides PROSPECTIVELY for any man's surviving CLASS — (or, CLASSES) directly; — collaterally; — or remotely.

Whereas the Maine Law Court has presumed in the Murray vs Sullivan case;

" — it would be incongruous
to PERMIT the statute to
operate — —"
IT HAS LEGALLY DENIED ME DUE
PROCESS, — AND "EQUAL PRO-
TECTION" UNDER STATE
AND FEDERAL LAWS.

* * *

HOW ELSE CAN THE LEGISLATURE'S INTENT BE (LEGALLY) APPLIED . . .?

* * *

Therefore: —

That which is not "legal" — or constitutional, prevents a VALID distribution under a final distribution, in a Probate Court.

Like a "chain-reaction," all statutory (prior) PROBATE procedure and due process, was BY-PASSED, by the Law Court.

Note: — (This "blew the fuse" all the way back to the jurisdiction of the probate court of original jurisdiction.)

It appears to the Appellant herein, that national SUPERVISION over all citizens CIVIL, and CLASS RIGHTS; is required to protect all citizens, in all states, from "ipse dixit" judicial abuse of authority.

Established national law should exist to prevent any state court, from swaying cases from "right to left," — in conflict with the fixed (stare decisis) "SAME MANNER" of law required by written (statutory) law. "Special privilege," — IS foreign to statutory law.

It is a pity, but true, that before the UNNAMED and UNCLASSIFIED "claimants herein could inherit the Cassidy Estate: — through the jurisdiction of the Probate

Court, County of Penobscot, State of Maine: —

> (Quote) — *"IN THE SAME MANNER," required by the intestate "LAWS OF THE STATE OF MAINE" (the laws had to be by-passed;) (as though Mr. Cassidy died 43 years after he actually died.) — This construction cost the interested parties approximately $550,000.00 dollars, in just lawyers fees.*
>
> Note: — Re: "SAME MANNER" — please see Cassidy Will, — R. 343, (18); and R. 350, (25); — Also Murray case, 158 Me. at p. 99: — and, Appellant's Brief at p. 62.)

The Federal issues herein may be benign; but ubiquitous. They are quid ab initio, — and cumulative. That which is wrong (or void) in the beginning never improves with time.

Whenever, one branch of the state or federal government, (Executive, Legislative, or Judicial; —) becomes sick with "IPSES DIXIT," the following expression may be applicable: —

> *"Those whom the Gods would destroy; — they first make mad with power."*

The whole system of Corpus Juris law, is full of constitutional examples of "equal protection" and "due process," CIVIL, AND CLASS RIGHTS.

Obviously, when any court attempts to rewrite the Legislature's intention; the CONFLICT of law "blows a fuse" throughout the whole system: which can only be remedied by a third SUPERVISORY power.

The Appellant is aggrieved.

The Appellant has expended considerable time, effort and expense, to bring this unique case (perhaps of first impression) to the attention of this Honorable Court. Only

this Court CAN remedy, remand, or supervise a just solution.

Perhaps my Appeal; (like Karl Menninger's new book; — (*"What Ever Became of Sin?"*) — — — best explains the need for ultimate TRUTH in all sciences.

The ever increasing "many" will have to learn the fundamental law of "just compensation."

INEVITABLE REACTION, — DEPENDABLE LAWS, — — — AND THE THERAPY OF DEPENDABLE MERCY.

Like a "gold dollar", TRUTH ALLEVIATES the need for attempted (and often prejudicial) HUMAN REMEDIES.

Respectfully, this Honorable Court is requested to take judicial notice, to grant certiorari; — and any further appropriate relief.

Respectfully submitted: —

Edythe L. R. Dyer
Appellant — pro se
c/o 61 State St.
Bangor, Maine
(04401)

SUPREME COURT OF THE UNITED STATES
OFFICE OF THE CLERK
WASHINGTON, D.C. 20543

April 24, 1974

Ms. Edythe L. Dyer
Ralph Dyer, Incorporated
59-61 State Street
Bangor, Maine

Dear Ms. Dyer:

I acknowledge your letter of April 19, 1974, and remember very well the case presented to this Court in 1963. The Supreme Judicial Court of Maine sitting as the main law court is, of course, the highest state court in which a judgment might be had and such a judgment is, of course, reviewable by this Court either on appeal or on petition for writ of certiorari.

I am enclosing a copy of this Court's Rules of Procedure and return the pleadings which accompanied your letter.

Very truly yours,

MICHAEL RODAK, JR., Clerk

By

Edward C. Schade
Assistant Clerk

ECS:ljj

Enclosures

APPENDIX (B)

STATE OF MAINE

SUPREME JUDICIAL COURT

PENOBSCOT, ss. LAW COURT
LAW DOCKET # PEN-73-5

EDYTHE L. RICE DYER	)	
	)	
Appellant	)	MOTION TO DENY MOTION
	)	FOR REVIEW OF ALLEGED
FROM THE SUPREME COURT	)	ERRORS OF LAW AND FOR
OF PROBATE	)	SUPPLEMENTARY RELIEF
RE: ESTATE OF	)	
JOHN CASSIDY	)	

Motion of Roselle Cassidy Flynn, Barbara Ann Cassidy, John F. Cassidy, III and Joan Cassidy Stetson in the above captioned matter is hereby dismissed without prejudice.

Dated this 20th day of February, 1974.

For the Court

Armand A. Dufresu, Jr.
Chief Justice

State of Maine
Clerk of the Law Court
Feb. 21 1974
Received and Filed
Charles B. Rodway, Jr., Clerk